

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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IN RE PHARMACEUTICAL INDUSTRY )  
AVERAGE WHOLESALE PRICE ) MDL No. 1456  
LITIGATION )  
THIS DOCUMENT RELATES TO ) CIVIL ACTION: 01-CV-12257 PBS  
Master File No. 01-CV-12257-PBS )  
  ) Judge Patti B. Saris  
  )  
  ) Chief Mag. Judge Marianne B. Bowler  
  )

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**STATUS REPORT MARCH 1, 2005**

Pursuant to the Court's June 17, 2004 Procedural Order, the undersigned counsel for Plaintiffs and Defendants hereby submit the attached status report to the Court listing the status of all pending motions to date.

Respectfully Submitted,

PLAINTIFFS' LEAD COUNSEL  
ON BEHALF OF ALL PLAINTIFFS

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DATED: March 1, 2005

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**CERTIFICATE OF SERVICE**

I hereby certify that I, Thomas M. Sobol, an attorney, caused a true and correct copy of the foregoing Status Report to be served on all counsel of record electronically on March 1, 2005, pursuant to Section D of Case Management Order No. 2.

/s/ Thomas M. Sobol

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**MDL 1456 STATUS CHART – GOVERNMENT ENTITY CASES**

GOVERNMENT ENTITY CASES	MDL DOCKET NUMBER	ORIGINAL JURISDICTION	STATUS
<b>Montana v. Abbott Labs., Inc. et al.</b>	02-CV-12084-PBS	Removed to D. Mont.	<ul style="list-style-type: none"> <li>• November 24, 2004 – <b>Watson Pharmaceuticals, Inc.’s Motion to Dismiss the State of Montana’s Second Amended Complaint</b> <ul style="list-style-type: none"> <li>◦ December 8, 2004 – State of Montana’s Opposition to Motion to Dismiss the State of Montana’s Second Amended Complaint</li> <li>◦ December 16, 2004 – Watson Pharmaceuticals, Inc.’s Reply Memorandum in Support of Motion to Dismiss the State of Montana’s Second Amended Complaint (leave to file granted December 21, 2004)</li> </ul> </li> </ul>
<b>Nevada v. American Home Products, Inc. et al (“Nevada II”)</b>	02-CV-12086-PBS	Removed to D. Nev.	<ul style="list-style-type: none"> <li>• November 24, 2004 – <b>Watson Pharmaceuticals, Inc.’s Motion to Dismiss the State of Nevada’s Amended Complaint</b> <ul style="list-style-type: none"> <li>◦ December 8, 2004 – State of Nevada’s Opposition to Motion to Dismiss the State of Nevada’s Second Amended Complaint</li> <li>◦ December 16, 2004 – Watson Pharmaceuticals, Inc.’s Reply Memorandum in Support of Motion to Dismiss the State of Nevada’s Second Amended Complaint (leave to file granted December 21, 2004)</li> </ul> </li> </ul>
<b>California ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Labs., Inc. et al.</b>	03-CV-11226-PBS	Removed to C.D. Cal.	<ul style="list-style-type: none"> <li>• No pending motions</li> </ul>
<b>County of Nassau v. Abbott Labs., Inc. et al.</b>	n/a	E.D.N.Y.	<ul style="list-style-type: none"> <li>• December 10, 2004 – Notice of Related Action filed with the Judicial Panel on Multidistrict Litigation</li> <li>• February 11, 2005 – Defendants’ Motion for a Case Management Conference and for Coordination of Pleadings and Supporting Memorandum <ul style="list-style-type: none"> <li>◦ February 25, 2005 – Plaintiffs’ Memorandum In Response To Defendants’ Motion for a Case Management Conference and for Coordination of Pleadings</li> </ul> </li> </ul>

GOVERNMENT ENTITY CASES	MDL DOCKET NUMBER	ORIGINAL JURISDICTION	STATUS
County of Suffolk v. Abbott Labs., Inc. et al.	03-CV-10643-PBS	E.D.N.Y.	<ul style="list-style-type: none"> <li>• Certain Defendants' Motions to Dismiss Suffolk County's Amended Complaint <i>sub judice</i> <ul style="list-style-type: none"> <li>○ October 26, 2004: <b>Memorandum and Order</b> dismissing Purdue Pharma L.P., Ivax Corporation, Ivax Pharmaceuticals, Sanofi-Synthelabo Inc., Aventis Pharmaceuticals Inc., and Novartis, and deferring ruling on individual motions to dismiss filed by the "Suffolk 13" and individually by certain other defendants, and ordering plaintiff to make disclosures and provide more definitive statement pursuant to Fed. R. Civ. P. 12(e)</li> <li>▪ November 16, 2004 – Suffolk County's Affidavit of Aaron D. Hovan Providing (1) Methodology and Documents Used to Estimate AWP Spread and (2) Additional Information Regarding Defendants filed in Response to October 26, 2004 Order</li> <li>▪ November 30, 2004 – Individual and Joint Responses to Suffolk County's Supplemental Filing in Response to the Court's October 26, 2004 Order</li> <li>▪ December 8, 2004 – Suffolk County's Motion for Leave to File a Reply in Further Response to the Court's October 26, 2004 Order <ul style="list-style-type: none"> <li>• January 10, 2005 – Suffolk County's Motion for Leave to File a Reply in Further Response to the Court's October 26, 2004 Order Granted</li> </ul> </li> <li>• February 11, 2005 – Defendants' Motion for a Case Management Conference and for Coordination of Pleadings and Supporting Memorandum <ul style="list-style-type: none"> <li>○ February 25, 2005 – Plaintiffs' Memorandum In Response To Defendants' Motion for a Case Management Conference and for Coordination of Pleadings</li> </ul> </li> </ul> </li> </ul>
County of Rockland v. Abbott Labs., Inc. et al.	03-CV-12347-PBS	S.D.N.Y.	<ul style="list-style-type: none"> <li>• Stipulation in place extending defendants' time to answer until 30 days after decision on motions to dismiss Suffolk County complaint</li> <li>• February 11, 2005 – Defendants' Motion for a Case Management Conference and for Coordination of Pleadings and Supporting Memorandum <ul style="list-style-type: none"> <li>○ February 25, 2005 – Plaintiffs' Memorandum In Response To Defendants' Motion for a Case Management Conference and for Coordination of Pleadings</li> </ul> </li> </ul>

GOVERNMENT ENTITY CASES	MDL DOCKET NUMBER	ORIGINAL JURISDICTION	STATUS
<b>County of Westchester v. Abbott Labs., Inc. et al.</b>	n/a	S.D.N.Y.	<ul style="list-style-type: none"> <li>• Stipulation in place extending defendants' time to answer until 30 days after decision on motions to dismiss Suffolk County complaint</li> <li>• February 11, 2005 – Defendants' Motion for a Case Management Conference and for Coordination of Pleadings and Supporting Memorandum <ul style="list-style-type: none"> <li>◦ February 25, 2005 – Plaintiffs' Memorandum In Response To Defendants' Motion for a Case Management Conference and for Coordination of Pleadings</li> </ul> </li> </ul>
<b>City of New York v. Abbott Labs., Inc. et al.</b>	n/a	S.D.N.Y.	<ul style="list-style-type: none"> <li>• September 24, 2004 – Conditional transfer order issued by Judicial Panel on Multidistrict Litigation; no opposition filed</li> <li>• February 11, 2005 – Defendants' Motion for a Case Management Conference and for Coordination of Pleadings and Supporting Memorandum <ul style="list-style-type: none"> <li>◦ February 25, 2005 – Plaintiffs' Memorandum In Response To Defendants' Motion for a Case Management Conference and for Coordination of Pleadings</li> </ul> </li> </ul>

**MDL 1456 STATUS CHART – PRIVATE CLASS CASES**

PRIVATE CLASS CASES	MDL DOCKET NO.	ORIGINAL JURISDICTION	STATUS
<b>Master Consolidated Class Action</b>	Master File 01-CV-12257-PBS	D. Mass. pursuant to JPML Order	<ul style="list-style-type: none"> <li>• April 27, 2004 – <b>Plaintiff Suffolk County's Motion Respecting Coordinated Discovery <i>sub judice</i></b> <ul style="list-style-type: none"> <li>○ May 11, 2003 – Response of Liaison Counsel to Suffolk County's Motion Respecting Coordinated Discovery</li> <li>○ May 24, 2004 – Plaintiff Suffolk County's Reply on Motion Respecting Coordinated Discovery</li> <li>○ May 26, 2004 – Plaintiffs' Motion to File A Surreply In Opposition to Suffolk County's Reply on Motion Respecting Coordinating Discovery; Liaison and Plaintiff Counsels' Surreply to Suffolk County's Reply on Motion Respecting Coordinated Discovery</li> <li>○ May 28, 2004 – Memorandum of Bristol-Myers Squibb Company in Response To The Motion Of County Of Suffolk Addressing The Role Of Liaison Counsel For All Plaintiffs</li> <li>○ May 28, 2004 – Response of Liaison Counsel to BMS Memorandum Addressing the Role of Liaison Counsel</li> <li>○ June 22, 2004 – Order Granting Plaintiffs' Motion for Leave to File a Surreply in Opposition to Suffolk County's Reply on Motion Respecting Coordinating Discovery</li> </ul> </li> <li>• May 3, 2004 – <b>Plaintiffs' Motion to Compel The Production of Documents Created During the Relevant Time Period from Defendants Abbott Laboratories, Astrazeneca, Schering Plough, Sicor and Together Rx Defendants <i>sub judice</i> (Magistrate Bowler)</b> <ul style="list-style-type: none"> <li>○ May 17, 2004 – Certain Defendants' Notice of Opposition to Plaintiffs' Motion to Compel the Production of Certain Documents and Consent Motion for an Extension of Time</li> <li>○ May 26, 2004 – Notice of Withdrawal of Plaintiffs' Motion to Compel the Production of Documents Created During the Relevant Time Period Directed at Defendant Schering-Plough (<i>Note: withdrawal applies only to Schering-Plough</i>)</li> <li>○ May 27, 2004 – Consent Motion for an Extension of Time to Oppose the Motion to Compel</li> <li>○ May 27, 2004 – Opposition of the Together Rx Defendants to Plaintiffs' Motion to Compel the Production of Documents</li> <li>○ May 28, 2004 – Notice Of Withdrawal Of Plaintiffs' Motion To Compel The Production Of Documents Created During The Relevant Time Period Directed At Defendant Abbott Laboratories</li> </ul> </li> </ul>

PRIVATE CLASS CASES	MDL DOCKET NO.	ORIGINAL JURISDICTION	STATUS
<b>Master Consolidated Class Action (continued)</b>			<p>(Note: withdrawal applies only to Abbott Laboratories)</p> <ul style="list-style-type: none"> <li>○ June 8, 2004 – Notice of Withdrawal of Plaintiffs' Motion to Compel the Production of Documents Created During the Relevant Time Period Directed at Defendant AstraZeneca. (Note: withdrawal applies only to AstraZeneca)</li> <li>○ June 9, 2004 – Plaintiffs' Reply Memorandum In Support of Motion To Compel The Production of Documents Created During The Relevant Time Period From The Together Rx Defendants</li> <li>○ June 22, 2004 – Order granting Plaintiffs' Motion to Withdraw Motion to Compel Directed at Abbott Laboratories</li> <li>○ June 22, 2004 – Order granting AstraZeneca's Assented to Motion for Extension of Time to File Response to Plaintiffs' Motion to Compel</li> <li>○ June 22, 2004 – Order finding as Moot AstraZeneca's Motion for Extension of Time to Oppose Plaintiffs' Motion to Compel</li> <li>○ Awaiting scheduling of hearing or ruling by Court as to Together Rx Defendants.</li> </ul> <ul style="list-style-type: none"> <li>• September 3, 2004 – <b>Plaintiffs' Motion for Class Certification</b> <ul style="list-style-type: none"> <li>○ October 25, 2004 – Track 1 Defendants' Consolidated and Individual Opposition to Plaintiffs' Motion for Class Certification, with supporting declarations and exhibits</li> <li>○ December 17, 2004 – Plaintiffs' Amended Motion for Class Certification</li> <li>○ December 17, 2004 – Plaintiffs' Reply Memoranda to Consolidated and Individual Oppositions to Plaintiffs' Motion for Class Certification</li> <li>○ January 21, 2005 – Track 1 Defendants' Consolidated and Individual Surreplies to Plaintiffs' Motion for Class Certification, with supporting declarations and exhibits</li> <li>○ February 8, 2005 – Memorandum of the Attorney General of the Commonwealth of Pennsylvania in Opposition to Class Certification.</li> <li>○ February 10, 2005 – State of California's and Relator's Statement of Position Regarding Certification of Class</li> </ul> </li> <li>• October 25, 2004 – <b>Motion to Strike the Declaration of Raymond S. Hartman</b> <ul style="list-style-type: none"> <li>○ October 25, 2004 – Memorandum in Support of Motion to Strike the</li> </ul> </li> </ul>

PRIVATE CLASS CASES	MDL DOCKET NO.	ORIGINAL JURISDICTION	STATUS
Master Consolidated Class Action (continued)			<ul style="list-style-type: none"> <li>Declaration of Raymond S. Hartman <ul style="list-style-type: none"> <li>○ November 30, 2004 – Track 1 Defendants' Motion to Strike the Declaration of Raymond S. Hartman</li> <li>○ December 17, 2004 – Plaintiffs' Memorandum in Opposition to Motion to Strike the Declaration of Raymond S. Hartman</li> <li>○ January 21, 2005 – Track One Defendants Reply in Support of Their Motion to Strike the Declaration of Raymond S. Hartman</li> </ul> </li> <li>• November 2, 2004 – <b>Joint Motion for Amended Protective Order</b></li> <li>• December 17, 2004 – <b>Plaintiffs' Motion to Strike the Declaration of Eric M. Gaier, Ph.D</b> <ul style="list-style-type: none"> <li>○ January 21, 2005 – Track One Defendants Opposition to Plaintiffs' Motion to Strike the Declaration of Eric M. Gaier, Ph.D</li> <li>○ February 2, 2005 – Plaintiffs' Reply in Support of Their Motion to Strike the Declaration of Eric M. Gaier, Ph.D</li> </ul> </li> <li>• December 17, 2004 – <b>Plaintiffs' Motion to Strike the Declaration of Steven J. Young</b> <ul style="list-style-type: none"> <li>○ January 21, 2005 – Track One Defendants Opposition to Plaintiffs' Motion to Strike the Declaration of Steven J. Young</li> <li>○ February 4, 2005 – Plaintiffs' Reply in Support of Their Motion to Strike the Declaration of Steven J. Young</li> </ul> </li> <li>• December 17, 2004 – <b>Plaintiffs' Motion to Strike Portions of the Declaration of Robert P. Navarro</b> <ul style="list-style-type: none"> <li>○ January 21, 2005 – Track One Defendants Opposition to Plaintiffs' Motion to Strike Portions of the Declaration of Robert P. Navarro</li> <li>○ February 2, 2005 – Plaintiffs' Reply in Support of Their Motion to Strike Portions of the Declaration of Robert P. Navarro</li> </ul> </li> <li>• January 21, 2005 – Third Party Toledo Clinic Inc.'s Motion to Quash Defendants' Subpoena <ul style="list-style-type: none"> <li>○ February 15, 2005 – Plaintiffs' Memorandum in Opposition to Toledo Clinic Inc.'s Motion to Quash Defendants' Subpoena</li> </ul> </li> <li>• February 3, 2005 – Plaintiffs' Motion to Compel Defendant GlaxoSmithKline, Inc. to Produce Rule 30(b)(6) Witnesses</li> </ul>

PRIVATE CLASS CASES	MDL DOCKET NO.	ORIGINAL JURISDICTION	STATUS
<b>Master Consolidated Class Action (continued)</b>			<ul style="list-style-type: none"> <li>• February 3, 2005 – Plaintiffs' Motion to Compel Defendant GlaxoSmithKline, Inc. to Produce Documents in the Manner Required by Rule 34(b)</li> <li>• February 3, 2005 – Plaintiffs' Motion to Compel Defendant GlaxoSmithKline, Inc. to Produce Transactional Data</li> <li>• February 3, 2005 – Plaintiffs' Motion to Compel and for Finding that AstraZeneca's Pricing, Marketing, and Sales of its Products are not Protected by the Attorney-Client Privilege <ul style="list-style-type: none"> <li>◦ February 24, 2005 – AstraZeneca Pharmaceuticals LP's Opposition to Plaintiffs' Motion to Compel and for Finding that AstraZeneca's Pricing, Marketing, and Sales of its Products are not Protected by the Attorney-Client Privilege, and Cross-Motion for a Protective Order Relating to the April 2, 2004 Amended Notice of Rule 30(b)(6) Deposition</li> </ul> </li> <li>• February 23, 2005 – Third Party Schaller Anderson Inc.'s Objection and Motion to Quash Plaintiffs' Subpoena.</li> <li>• February 24, 2005 – Track One Defendants' Motion for Entry of Proposed Case Management Order No. 13 <ul style="list-style-type: none"> <li>◦ February 25, 2005 – Plaintiffs' Memorandum Regarding Scheduling</li> <li>◦ February 25, 2005 Phase II Defendants' Motion for Entry of Proposed Case Management Order No. 13</li> </ul> </li> </ul>
<b>Congress of California Seniors v. Abbott Labs., Inc. et al.</b>	03-CV-10216-PBS	Removed to C.D. Cal.	<ul style="list-style-type: none"> <li>• Consolidated into Master Class Action</li> </ul>
<b>International Union of Operating Engineers, Local No. 68 Welfare Fund v. AstraZeneca PLC et al.</b>	n/a	Removed to D.N.J.	<ul style="list-style-type: none"> <li>• <b>Motion to Remand</b> filed in District of New Jersey prior to transfer; briefed while pending in District of New Jersey</li> </ul>